



DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
2300 E STREET NW
WASHINGTON DC 20372-5300

Canc frp: Mar 2010
IN REPLY REFER TO
BUMEDNOTE 6010
BUMED-M3/5
4 Mar 2009

BUMED NOTICE 6010

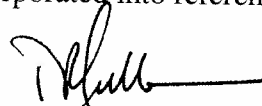
From: Chief, Bureau of Medicine and Surgery
To: Ships and Stations Having Medical and Dental Personnel

Subj: DATA USE AGREEMENT (DUA) TO SHARE QUALITY ASSURANCE (QA) AND
PERSONAL HEALTH INFORMATION (PHI) WITH NON-DEPARTMENT OF
DEFENSE (DoD) ENTITIES

Ref: (a) DoD 6025.13-R of 11 Jun 2004
(b) Title 10 U.S.C. § 1102

Encl: (1) Request for DUA - QA/PHI Data Sharing With Non-DoD Entities

1. Purpose. To provide guidance to Navy Medical and Dental commands for the submission of requests for a DUA to share QA and/or PHI data with non-DoD entities.
2. Background. As part of The Joint Commission (TJC) accreditation process and the Military Health System (MHS) Clinical Quality Program, Navy medical and dental commands must track a series of quality measures. These measures are established and standardized across the MHS. Per references (a) and (b), DoD participates with organizations external to the DoD in quality improvement initiatives to support the mission of the MHS while assuring adherence to the privacy, confidentiality, and 10 U.S.C. § 1102 requirements. This data can only be shared with external sources through the use of a DUA. Service requests for a DUA must be coordinated with the Assistant Secretary of Defense for Health Affairs (ASD(HA)) via the Chief, Bureau of Medicine and Surgery (BUMED)/Surgeon General.
3. Action. Navy medical and dental commands will complete enclosure (1) to request sharing of QA/PHI data with non-DoD entities. This request will be routed to BUMED Risk Management (BUMED-M3/5) through the command's commanding officer and regional commander. Following review by BUMED-M3/5 and Special Assistant, Medico-Legal Affairs (BUMED-M00J) (as needed), Chief, BUMED/Surgeon General will render an opinion and determine if the request shall go on to ASD(HA) for approval. If ASD(HA) approves the request, BUMED-M3/5 will coordinate the request for a DUA through the TRICARE Management Activity (TMA) Privacy Office and Office of General Counsel.
4. Point of Contact. Forward questions to CAPT Linda Grant, NC, USN, BUMED-M3/5, Joint Commission Clinical Specialist at (202) 762-3704 or e-mail: Linda.Grant@med.navy.mil.
5. Cancellation Contingency. Retain until incorporated into reference (a).


T. R. CULLISON
Vice Chief

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REQUEST FOR DUA - QA/PHI DATA SHARING WITH NON-DOD ENTITIES

1. Service:
2. MTF Name:
3. MTF Location:
4. List all MTF current clinical performance indicator programs (i.e., ORYX (core and/or non-core), Healthcare Effectiveness Data and Information Set (HEDIS) methodology, NPIC, Centers for Disease Control and Prevention (CDC), National Surgical Quality Improvement Program (NSQIP), other).
5. List all MTF specific measures by program with performance results for the last year – results to be obtained from Health Care Data, Inc., Military Health System-Clinical Quality Management (HCD/MHS-CQM), Population Health Portal, NPIC, (CDC, NSQIP-future) databases/Web sites; include comparisons to DoD and National results - use an attachment).
6. The following information on the non-DoD entity is required to process the request (be specific).
 - a. General information on the company – Who are they? What do they do? How long have they been in business? Who are their customers? Any other relevant information.
 - b. Is there an enrollment/application/licensing or other fee? List the fee(s) and schedule.
 - c. What are the IM/IT requirements?
 - (1) Is this an enterprise service, how many users do you have?
 - (2) Is companion client software used with the system?
 - (3) Is this a web-based system?
 - (4) Are any components required to be downloaded to the client desktop i.e., java script?
 - (5) What type of security does the system provide i.e., secure socket layer (SSL) with encryption?
 - (6) Who creates the user accounts for each user?
 - (7) How many users are generally using the system per site?
 - (8) What about digital security certificates?

- (9) Do you use commercial or DoD PKI certificates on this server?
 - (10) What are the ports and protocols used by this system?
 - (11) What is the availability of the system; 24/7/365?
 - d. What data will be shared with them, for example, de-identified patient level data on xxx, aggregate data xxx?
 - e. How will they get MTF data?
 - f. What resources are necessary to support this – people, dollars, equipment, and time?
 - g. How will the company use the MTF data?
 - h. What will the MTF get from the company – data, reports, benchmarking, analysis? What is the report schedule? Provide sample.
 - i. Does the company have any other agreements with DoD, Federal and/or State agencies? If so, list here by name.
- 7. Will this duplicate any quality activities already required?
 - 8. What other options exist within DoD to get this data?
 - 9. Are any other MTFs in the MHS participating in the program? If yes, provide name(s) of facility with statement from them on value to MTF.
 - 10. What other companies outside DoD provide this service?
 - 11. How can the MTF use this data to improve clinical quality?
 - 12. What do you plan to do with this data (return on investment)?
 - 13. What would happen if this data was not collected/shared?
 - 14. Does this have utility across Navy Medicine and MHS? If so, how?
 - 15. Medical QA records are subject to the requirements of 10 U.S.C. § 1102 and may not be disclosed unless specifically permitted under the provisions of 10 U.S.C. § 1102(c)-(e). Aggregate data may be released per the instruction. Aggregate data is numerical data. Aggregate data is not de-identified patient information. How will 10 U.S.C. § 1102 protections be preserved?

16. This Business Associate (BA) standard contract clause (http://www.tricare.mil/tmaprivacy/downloads/TMA_TPS_BAA_11Mar8.doc) is mandatory whenever a contract is awarded that requires an outside person or entity to provide certain functions, activities, or services involving the use and/or disclosure of PHI. If it is determined that this language is required, then it must be incorporated in the deliverables section of the appropriate Task Order Template. Is the non-DoD entity willing to meet the definition/requirements of a BA?

17. DoD requires a Data Use Agreement (DUA) to establish the permitted uses and disclosures of the QA data prior to its release to a non-DoD entity. The release of DoD QA information is controlled by statute (10 U.S.C. Section § 1102), which does not permit discretionary releases. In addition, any release of QA information retains its protected status and cannot be re-released outside the limitations of the law. The DUA request process can take an average of 3-6 months to complete. Will the company be willing to sign a DUA?

18. Is there any additional information that may be relevant? Please include it.

19. All questions must be answered. If the request is incomplete, it will be returned to the requesting activity.

20. The following is a short summary of DUA requirements:

DATA USE AGREEMENTS: DoD is committed to participating with organizations external to the DoD (including other Federal agencies) in quality improvement initiatives to support the mission of the Military Health System (MHS) while assuring adherence to the privacy and confidentiality requirements that protect the interests of TRICARE beneficiaries and practitioners. Such data can only be made available through the use of a Data Use Agreement (DUA). A DUA is a legally binding agreement between the DoD and the recipient of MHS data, which establishes the permitted uses and disclosures of the data released to the recipient. DUAs were established by the Privacy Act of 1974 and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to control the release of patient-related information. The TMA Privacy Office has established regulations (including a draft DUA) and is responsible for reviewing and processing DUAs. Service requests for a DUA shall be coordinated with Health Affairs via Chief, Bureau of Medicine and Surgery. Submit requests to BUMED Risk Management, BUMED-M3/5.

21. If you have any questions, please contact Captain Linda Grant, NC, USN, BUMED-M3/5 (Health Care Support) at: Linda.Grant@med.navy.mil or (202) 762-3704.